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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,954	09/22/2003	Enzo Berti	06387.00037	1212
22908	7590	11/17/2004	EXAMINER	
<b>BANNER &amp; WITCOFF, LTD.</b> TEN SOUTH WACKER DRIVE SUITE 3000 CHICAGO, IL 60606				BALSIS, SHAY L
ART UNIT		PAPER NUMBER		
		1744		

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/667,954	BERTI, ENZO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Shay L Balsis	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 22 September 2003.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-5 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 February 2004 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/25/04.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

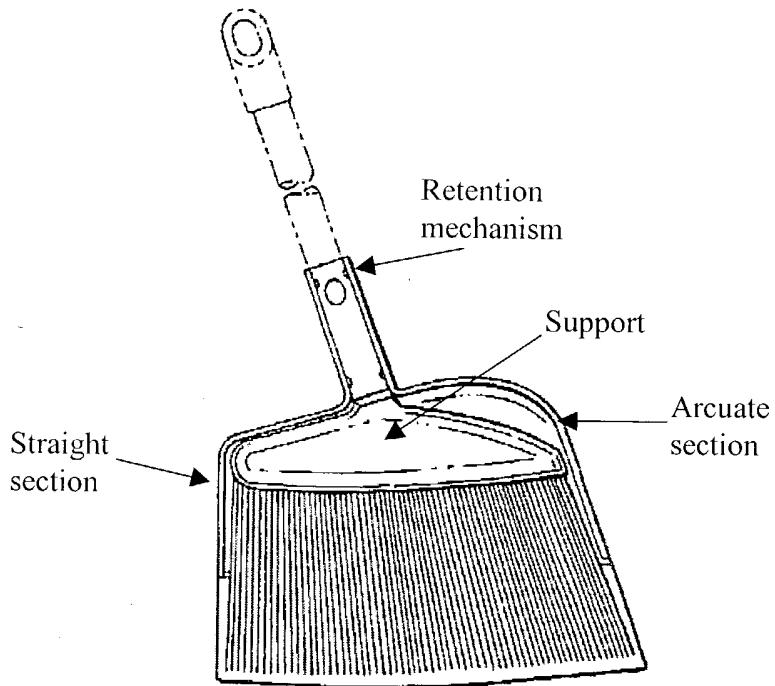
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 3-4 are rejected under 35 U.S.C. 102(a) as being anticipated by Robertson (USPN D468106).

Robertson teaches a dustpan and broom kit. The dustpan includes a tray with a leading edge and retention rib opposite the leading edge. There is a handle connected to the retention rib and the handle is formed at a *generally* right angle with the leading edge. The handle includes a broom handle cavity and a retention mechanism for receiving and retaining a broom handle. The tray is bounded by the retention rib and the rib defines an arcuate circular arc section extending from one side of the leading edge and a substantially straight section extending from the other side of the leading edge. The arcuate section of the retention rib engages the straight section at an intersection adjacent a side of the dustpan handle. The broom has a broom handle with a bristle support attached to one end of the handle. The support has a top side attached to the handle and bottom side with bristles projecting from the bottom side. The bristles define a sweeping plane and the broom handle axis and the sweeping plane form an obtuse angle. The broom handle is engageable with the broom handle cavity on the dustpan.



***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson (USPN D468106).

Robertson discloses all the essential elements of the claimed invention however, the reference fails to teach an angle of 50-75 degrees between the leading edge and the straight edge. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to provide an angle of 50-75 degrees between the leading edge and the straight edge

because Applicant has not disclosed that an angle of 50-75 degrees provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the angle as taught by Robertson or the claimed 50-75 degree angle because both configurations allow for proper collection and disposal of waste. Therefore, it would have been obvious to one of ordinary skill in the art to modify Robertson to obtain the invention as specified in claim 2.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson (USPN D468106) in view of Petner (USPN 5839145).

Robertson teaches all the essential elements of the claimed invention however fails to teach that the bristles are longer at one end are longer than at the other end. Petner teaches a combination dustpan and broom. The broom of Petner has bristles that increase in length from one end of the broom to the other. It would have been obvious to angle the bristles of Robertson as taught by Petner so that the broom will be able to reach into corners and hard to reach places without a lot effort.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Slb  
11/8/04

*Robert J. Warden, Sr.*  
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